

Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANT:

THOMAS G. GODFREY
Anderson, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

J. T. WHITEHEAD
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

JAMES V. WOODS,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 48A02-0606-CR-452
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE MADISON SUPERIOR COURT
The Honorable Dennis D. Carroll, Judge
Cause No. 48D01-0512-FB-347

March 14, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

SHARPNACK, Judge

James V. Woods appeals his sentence for criminal confinement as a class B felony.¹ Woods raises one issue, which we restate as whether his sentence is inappropriate in light of the nature of the offense and the character of the offender. We affirm.²

The relevant facts follow. On December 13, 2005, the State charged Woods with criminal confinement as a B felony, battery by means of a deadly weapon as a class C felony,³ and sexual battery as a class C felony.⁴ Nineteen-year-old Woods pleaded guilty to criminal confinement as a class B felony, and the State dismissed the remaining

¹ Ind. Code § 35-42-3-3 (2004) (subsequently amended by Pub. L. No. 70-2006, § 1).

² Woods included a copy of the presentence investigation report on white paper in his appendix. We remind Woods that Ind. Appellate Rule 9(J) requires that “[d]ocuments and information excluded from public access pursuant to Ind. Administrative Rule 9(G)(1) shall be filed in accordance with Trial Rule 5(G).” Ind. Administrative Rule 9(G)(1)(b)(viii) states that “[a]ll pre-sentence reports pursuant to Ind. Code § 35-38-1-13” are “excluded from public access” and “confidential.” The inclusion of the presentence investigation report printed on white paper in his appellant’s appendix is inconsistent with Trial Rule 5(G), which states, in pertinent part:

Every document filed in a case shall separately identify information excluded from public access pursuant to Admin. R. 9(G)(1) as follows:

- (1) Whole documents that are excluded from public access pursuant to Administrative Rule 9(G)(1) shall be tendered on light green paper or have a light green coversheet attached to the document, marked “Not for Public Access” or “Confidential.”
- (2) When only a portion of a document contains information excluded from public access pursuant to Administrative Rule 9(G)(1), said information shall be omitted [or redacted] from the filed document and set forth on a separate accompanying document on light green paper conspicuously marked “Not For Public Access” or “Confidential” and clearly designating [or identifying] the caption and number of the case and the document and location within the document to which the redacted material pertains.

³ Ind. Code § 35-42-2-1 (Supp. 2005).

⁴ Ind. Code § 35-42-4-8 (2004).

charges.⁵ During the guilty plea hearing, Woods admitted that, while incarcerated at the Madison County Jail, he confined his cellmate, M.D., by holding him or restricting his movement while Woods was armed with a deadly weapon, specifically, a razor blade.

At the sentencing hearing, the trial court found the following aggravators: (1) Woods's adult and juvenile criminal history; and (2) the fact that the offense was committed in a penal facility. The trial court found Woods's guilty plea as a mitigator. The trial court sentenced Woods to fifteen years in the Indiana Department of Correction with five years suspended to probation.

The issue on appeal is whether Woods's fifteen-year sentence is inappropriate in light of the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B) provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). Woods asks that we resentence him to the minimum sentence of six years in the Indiana Department of Correction.

Our review of the nature of the offense reveals Woods held or restricted the movement of his cellmate, M.D., while Woods was holding a razor blade. According to Woods, he did not "care for" M.D. because of his attitude and his lack of bathing.

⁵ The plea agreement also provided that sentencing was open except for a cap of ten years on the

Transcript at 20. At the sentencing hearing, Woods testified that M.D. was “annoying.” Id. at 29. Woods attempts to minimize the nature of the offense by arguing that the razor blade was small and that M.D. had only minor lacerations to his neck and bruising on his hand, chest, and arm.

Our review of the character of the offender reveals that nineteen-year-old Woods has a significant criminal history. As a juvenile, Woods was adjudicated delinquent for the offenses of theft, intimidation, public intoxication, burglary, escape, truancy, runaway, battery as a class A misdemeanor, battery as a class C felony, possession of marijuana as a class A misdemeanor, and battery as a class D felony. As a result of his offenses, Woods spent time at the Indiana Boys School. The PSI notes that there have been many attempts to rehabilitate Woods. As a juvenile, Woods was “offered a curfew, private placement at the Youth Care Center Start Unit, psychological testing, placement in special education services, school suspensions, outpatient counseling, psycho-tropic medications, and secure detention on two separate occasions.” Appellant’s Appendix at 27. However, Woods showed “little remorse or willingness to change his delinquent behavior.” Id. As an adult, Woods had the instant charges and other charges for battery on a correctional officer.

Woods has been diagnosed with attention deficit hyperactive disorder. The PSI indicates that Woods admitted to having an “attitude problem” and using marijuana “as much as he can” to keep his “attitude down.” Id. at 29. Woods argues that the fact that

executed sentence.

he is young, that he attended special education classes, that he was raised without a father in a low-income, high crime area, and that his mother's boyfriend was abusive warrant a reduction in the sentence. Woods argues that the sentence "does little toward rehabilitation, but rather is likely to harden this young adult through exposure to the prison environment." Appellant's Brief at 7. However, the record reveals that Woods has already been offered significant opportunities at rehabilitation without success. Given Woods's significant criminal history and lack of rehabilitation despite the opportunities given to him, the trial court was within its discretion to impose an enhanced sentence. After due consideration of the trial court's decision, we find nothing in the above to make Woods's fifteen-year sentence with five years suspended for criminal confinement as a class B felony inappropriate. See, e.g., Julian v. State, 811 N.E.2d 392, 403 (Ind. Ct. App. 2004) (holding that the defendant's sentence was not inappropriate where the defendant had a juvenile criminal history and had resisted efforts to modify his criminal behavior), trans. denied.

For the foregoing reasons, we affirm Woods's sentence for criminal confinement as a class B felony.

Affirmed.

SULLIVAN, J. and CRONE, J. concur